federal register

Thursday
August 30, 1979

Part VI

Interior Department

Fish and Wildlife Service

Critical Habitat for the Virginia Big-eared Bat

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR 17]

Endangered and Threatened Wildlife and Plants; Reproposal of Critical Habitat for the Virginia Big-eared Bat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reproposal of Critical Habitat for the Virginia Big-eared Bat.

SUMMARY: The Service reproposes the Critical Habitat for the Virginia big-eared bat (Plecotus townsendii virginianus). Endangered status and Critical Habitat originally were proposed for this bat on December 2, 1977 (42 FR 61290–61292). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979, because of the procedural and substantive changes made by the Endangered Species Act Amendments of 1978. This proposed rule conforms to these requirements.

DATE: Comments on this proposed rule must be submitted by Nov. 1, 1979. A public meeting will be held on the date set out in the table below.

ADDRESSES: Interested persons or organizations are requested to submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Comments and materials relating to this rulemaking are available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia 22201. A public meeting will be held at the location set out in the table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION:

Background

The Virginia big-eared bat was proposed as Endangered on December 2, 1977. That proposal included Critical Habitat for this species. Before final action could be taken on the proposal, however, Congress passed the Endangered Species Act Amendments of 1978, which substantially modified the procedures the Service must follow when designating Critical Habitat. The present rulemaking will bring the Critical Habitat proposal into conformity with the Amendments.

Summary of Factors Affecting the Species

The Virginia big-eared bat long has been restricted to a relatively small area, and is dependent on a few specific kinds of caves for hibernation and reproductive activity. It is highly intolerant of human presence, and will readily abandon its roosts when disturbed. Even well-meaning biologists and spelunkers, observing the bats for scientific or educational purposes, have cause disturbances and subsequent population reductions.

This bat still is found in three separate populations, centered in eastern Kentucky, southwestern Virginia, and eastern West Virginia, but many caves within this region have been abandoned. In the last 15 years, at least five wintering colonies have disappeared in West Virginia. Only three nursery colony caves are known to remain in this State, and numbers therein have declined considerably because of repeated disturbance by spelunkers and vandals. There are still about 2,500 to 3,000 bats in West Virginia, but their dependence on the few remaining nursery caves makes the entire population subject to rapid extermination under the wrong conditions. A serious decline also has occurred in the single known nursery colony in Kentucky, which now contains fewer than 500 bats. In the Virginia population not more than a few hundred individuals survive.

Critical Habitat

The Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

The Service believes that certain caves within the geographical area occupied by the species under consideration should be designated as Critical Habitat. Because of precise conditions of physical structure, temperature, and humidity, these caves are suitable for use by the species as sites for hibernation and reproduction. The species has a limited range and is highly susceptible to changes in its habitat. Even minor disturbance or physical changes in the caves occupied may result in extinction. Therefore, these caves are essential for its conservation. The physical and biological features of its habitat are such as to require special management considerations and protection.

Section 4(b)(4) of the Act requires the Service to consider economic and other impacts of specifying a particular area as Critical Habitat. The Service has prepared a draft impact analysis and believes at this time that economic and other impacts of this action are insignificant in the foreseeable future. The Service is notifying agencies that may have jurisdiction over the areas under consideration of this proposed action. These agencies and other interested persons or organizations are requested to submit information on economic or other impacts of this proposed action (see below).

The Service will prepare a final impact analysis prior to the time of final rulemaking, and will use this document as the basis for its decision as to whether or not to exclude any area from Critical Habitat for the species.

Effect of This Proposal if Published as a Final Rule

Section 7(a) of the Act provides:

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded or carried out by such agency (hereinafter in this section referred to as "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of section 7 of the endangered Species Act Amendments of 1978.

Provisions for Interagency Cooperation are codified at 50 CFR Part 402. If published as a final rule this proposal would require Federal agencies

not only to insure that activities they authorize, fund, or carry out, do not jeopardize the continued existence of the species, but also to insure that their actions do not result in the destruction or adverse modification of this Critical Habitat which has been determined by the Secretary to be critical.

Section 4(f)(c) of the Act requires, to the maximum extent practicable, that any proposal to determine Critical Habitat be accompanied by a brief description and evaluation of those activities which, in the opinion of the Director, may adversely modify such habitat if undertaken, or may be impacted by such designation. Such activities are identified below for the Virginia big-eared bat.

1. Any action which would substantially alter the physical structure, temperature, humidity, or air flow of the designated caves could adversely modify Critical Habitat, since the Virginia big-eared bat depends on the maintenance of precise conditions in these caves which it must use for hibernating sites in the winter and for nurseries in the summer.

2. Any action which would result in disturbance of the bats in their hibernating or nursery caves would adversely affect Critical Habitat, since the species is highly intolerant of human disturbance. Such activity might include blasting or construction in or near the designated caves, or increasing human access to the caves.

The Service announces that a public meeting will be held on this proposed rule. The public is invited to attend this meeting and to present opinions and information on the proposal. Specific information on the meeting is as follows:

Time—Wednesday, September 26, 1979, starting at 7:00 P.M.

Place—Elkins Operations Center, West Virginia Department of Natural Resources, Ward Road, Elkins, West Virginia (located south of Elkins off of Route 219).

The Director intends that the rules finally adopted be as accurate and effective as possible in the conservation of the Virginia big-eared bat. Therefore, any comments or suggestions from the public, concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of this proposed rule are solicited. The Service particularly requests comments on the following:

(1) biological and other relevant data concerning any threat (or lack thereof) to this species;

(2) additional information concerning the range and distribution of the species;

(3) current or planned activities in the subject areas;

(4) the probable impacts of such activities if the areas are designated as Critical Habitat; and

(5) the foreseeable economic and other impacts of the Critical Habitat designation.

National Environmental Policy Act

A draft environmental assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment will be the basis for a decision as to whether this determination is a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this reproposal is Ronald M. Nowak, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Note.—The Department of the Interior has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Act 12044 and 43 CFR Part 14.

Regulations Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

It is proposed that § 17.95(a) be amended by adding Critical Habitat of the Virginia big-eared bat after that of the Indiana bat, as follows:

§ 17.95 Mammals.

* * * * *

Virginia Big-eared Bat
(*Plecotus townsendii virginianus*)

West Virginia. Cave Mountain Cave, Hellhole Cave, Hoffman School Cave, and Sinnit Cave, each in Pendleton County; Cave Hollow Cave, Tucker County.

Dated: August 27, 1979.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 79-27064 Filed 8-29-79; 8:45 am]

BILLING CODE 4310-55-M